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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE
3
4 ELBERTA BERNICE LIEBERMAN,)
5 Plaintiff,) Civil Action
6 v.) No. 96-523-GMS
7 THE STATE OF DELAWARE,)
8 THE FAMILY COURT OF THE)
STATE OF DELAWARE,)
Defendants.)

14 APPEARANCES:

15 EDWARD M. McNALLY, ESQ.
16 MORRIS, JAMES, HITCHENS & WILLIAMS, LLP
17 222 Delaware Avenue
18 Wilmington, Delaware 19801
19 for the Plaintiff
20 MARC P. NIEDZIELSKI, ESQ.
21 DEPUTY ATTORNEY GENERAL
22 DEPARTMENT OF JUSTICE
23 820 North French Street - 6th Floor
24 Wilmington, Delaware 19801
25 for the Defendants

0002
1 (Disch Deposition Exhibits 1, 2, 3, 4, 5, 6,

2 and / were marked for identification.)
3 KAREN DISCH,
4 the witness herein, having first been
5 duly sworn on oath, was examined and
6 testified as follows:
7 EXAMINATION

8 BY MR. MCNALLY:

9 Q. Ma'am, would you state your full name for the
10 record, please.

11 A. Karen Disch.

12 Q. And have you had your deposition taken before?

13 A. NO.
14 8 71

14 Q. The process is that I ask questions and show you
15 some documents. If there is any question you don't
16 understand, please let me know. And if there is anything

17 you need to talk to Mr. Niedzielski about, feel free to
18 do that. I don't really care.

19 And if in the course of the deposition you
20 think that you may have been misunderstood or misstated
21 something, just tell me and we will go back over it and
22 correct it. It is not a memory contest. I'm just trying
23 to get an understanding of what the documents are.

24 A. Okay.

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1 Q. Now, as I understand it, you have been offered by
2 the State of Delaware as a person to testify about the
3 funding of the Family Court and, in particular, any
4 federal funds that have been received directly or
5 indirectly by the Family Court.

6 A. Yes.

7 Q. Is that right?

8 A. Yes.

9 Q. And what is your present position?

10 A. I'm the Director of Fiscal Services.

11 Q. Of?

12 A. Family Court.

13 Q. And what do your job responsibilities include?

14 A. I oversee the budget and the court receivables,
15 also includes payroll and attendance.

16 Q. And how long have you had that position?

17 A. Since April of '03.

18 Q. I want to start with 1992, because that's the
19 relevant time period, believe it or not. Were you
20 employed by Family Court in 1992?

21 A. No.

22 Q. By whom were you employed at that point?

23 A. Justice of the Peace Court.

24 Q. What was your job there?

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1 A. Support Services Administrator.

2 Q. And how long were you at the Justice of the Peace
3 Court?

4 A. 12 years.

5 Q. When did you leave the Justice of the Peace
6 Court?

7 A. In April of '03.

8 Q. And that's when you took a job with the Family
9 Court?

10 A. Yes.

11 Q. Is it fair to say then that your testimony here
12 today about any federal funding for the Family Court back
13 in the year 1994 is based upon either your review of
14 documents or your discussions with other people?

15 A. Yes.

16 Q. Because you weren't there at the time?

17 A. Right.

18 Q. Okay. And in that regard, what documents did you
19 review prior to coming here for purposes of your
20 deposition?

21 A. I was asked to pull out fiscal documents related
22 to '93, '94. Most of our records from back then were --
23 they were with the archives and they have been destroyed,

24 so there wasn't that much from '93 to go on.

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1 Q. Okay. Well, where did you get records? Did you
2 go to the archives of the State of Delaware for records?

3 A. We had limited files in Family Court.

4 Q. So you basically went through the Family Court
5 files as best you could to find the documents?

6 A. Yes.

7 Q. Now, with respect to the Family Court, I'm now
8 going to ask a series of questions that deal with
9 generally how it gets its funding, and, in particular,
10 the relationship between Family Court and the State of
11 Delaware. The Family Court itself functions as a sort of
12 separate agency of the State of Delaware?

13 A. How do you mean separate?

14 Q. Well, that's a bad question. What are the
15 sources of funds, as you understand it today, for the
16 Family Court?

17 A. We get general funds and appropriated special
18 funds.

19 Q. You get general funds from the State of Delaware?

20 A. Yes.

21 Q. And appropriated special funds, did you say?

22 A. Yes.

23 Q. And who do you get those funds from?

24 A. The appropriated special funds are funds that are

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1 -- we receive a spending limit for a certain amount, and
2 it is the funds that we receive from Division of Child
3 Support that become our ASF.

4 Q. Become your?

5 A. Appropriated special funds.

6 Q. That's what you meant.

7 A. Sorry.

8 Q. That's all right. The record should show we are
9 joking. I know that you will occasionally lapse into the
10 acronyms which I, of course, will be completely befuddled
11 by, so we will just have to deal with that.

12 A. Okay.

13 Q. All right. Now, the Division of Child Support,
14 is it a division of another part of the State of
15 Delaware?

16 A. Yes.

17 Q. What part is it of?

18 A. I believe it is under Health and Social Services.

19 Q. So in a sense at the top it would appear to me
20 there is sort of a Department of Health and Social
21 Services, and then there is divisions in that department;
22 is that how you understand it?

23 A. Yes.

24 Q. And one of those is the Division of Child

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1 Support --

2 A. -- Enforcement.

3 Q. -- Enforcement, and the Division of Child Support
4 Enforcement gives money to the Family Court, and those
5 are the special appropriations you have talked about?

6 A. Yes.
7 Q. What are those funds used for?
8 A. They represent about 25 percent of our operating
9 budget. They are used for salaries and operating.
10 Q. Are any of those funds used to provide support to
11 children?
12 A. How do you mean?
13 Q. I mean does the Family Court disburse any money
14 to indigent children?
15 A. No.
16 Q. To the extent that they get any welfare, that
17 comes from the State of Delaware, not from the Family
18 Court?
19 A. Right. It does not come from Family Court.
20 Q. Now, do you know whether the system that you just
21 talked about, where there are both general funding and
22 special appropriations, was the same system that existed
23 in '93/'94?
24 A. Yes.

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1 Q. And so in '93/'94 the Division of Child Support
2 Enforcement had funds that were appropriated to the
3 Family Court for purposes of its operations; is that
4 right?
5 A. Not appropriated. They reimburse us for expenses
6 that we incur.
7 Q. And that's pursuant to a budget that you have?
8 A. Can you --
9 Q. I guess I'm trying to figure out, let me see, the
10 Division of Child Support Enforcement you say reimburses
11 Family Court for expenses, correct?
12 A. Yes.
13 Q. So do you send them a bill?
14 A. Yes.
15 Q. And then they send you a check?
16 A. Basically, yes. They deposit the funds, yes.
17 Q. Now, do you know where the Division of Child
18 Support Enforcement gets its funds that are used to pay
19 the bills of Family Court?
20 A. I, from what I've been told, it is federal funds.
21 Q. And so as far as you know, that was the system
22 that existed in '93 and '94 as well?
23 A. Yes.
24 Q. I'm putting before you a document that's been

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1 marked as your exhibit Number 1, which has the Bates
2 numbers, these are these crazy little numbers at the
3 bottom of the page where it has been stamped on there,
4 the first page has got a stamp on it 1339. Do you see
5 that, ma'am?
6 A. Yes.
7 Q. The top of it says it is the "National Court
8 Appointed Special Advocate Association 2003 State
9 Organization Cooperative Agreement Award." Do you see
10 that?
11 A. Yes.
12 Q. Now, can you tell us generally what this document

13 is?

14 A. This is a grant award from CASA, National CASA.

15 Q. Okay. What is National CASA?

16 A. It is, well, other than what their abbreviation
17 is, they are an organization that gives us funding by
18 grants.

19 Q. Okay. The actual name of the organization is the
20 National Court Appointed --

21 A. I'm sorry.

22 Q. -- Special Advocate Association?

23 A. Yes.

24 Q. And so you folks abbreviate that national CASA,
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1 C-A-S-A; is that right?

2 A. Yes.

3 Q. And do you know where the National CASA gets its
4 funds?

5 A. No, I don't.

6 Q. Now, this system where they give you funds, the
7 amount of this award it says is \$53,000. Do you see
8 that, ma'am?

9 A. Yes.

10 Q. And so Family Court would have used those funds
11 in accordance with I guess paragraph 1 of this document
12 where it says "Use of Grant Funds"?

13 A. Yes.

14 Q. Now, the document also in paragraph 1 says that
15 the grantee, which is the CASA program, Family Court of
16 Delaware; is that right?

17 A. Yes.

18 Q. And it talks about a cooperative agreement with
19 the Department of Justice. Do you see that, ma'am?

20 A. Yes.

21 Q. Is that the federal Department of Justice?

22 A. I don't know.

23 Q. Now, it goes on to say that the funds will be
24 "subject to the applicable restrictions and provisions of
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1 this federal funding as described in," and it says, "the
2 Catalogue of Federal Domestic Assistance." Do you see
3 that, ma'am?

4 A. Yes.

5 Q. And somebody has circled the number there. I
6 guess that's probably a Code of Federal Regulations. Do
7 you know what that refers to?

8 A. No, I don't.

9 Q. So do you know whether the National CASA gets its
10 funding from the federal government?

11 A. I'm not sure.

12 Q. Now, in connection with receipt of funds under
13 this grant, does the Family Court provide a report on how
14 the funds were expended?

15 A. Yes.

16 Q. And who do you provide that to?

17 A. Well, it depends on who the -- where the funds
18 come from.

19 Q. All right. Let's look at paragraph number 15 of

20 this document, which is on page 6 of it. That begins or
21 is headed, rather, it says "Audit Requirements." Do you
22 see that?

23 A. Yes.

24 Q. And in looking at that, does that help you tell
0012 us to whom any reports go about how the funds were spent?

1 A. Well, this particular grant was from National
2 CASA, so the reports would be sent to them.
3

4 Q. Now, if you turn in this document to page Bates
5 numbered 1349, it is another document that says it is
6 from the National Court Appointed Special Advocate
7 Association, and this I would guess is the same
8 association that we just talked about, the National CASA?

9 A. I'm not sure about that.

10 Q. This talks about a grant for the duration of July
11 1, 1993 through June 30, 1995. Do you see that, ma'am?

12 A. Yes.

13 Q. Either by looking at this document or from your
14 general knowledge, is it your understanding that the
15 Family Court in that period of '93 to '95 did receive
16 money from the National Court Appointed Special Advocate
17 Association?

18 A. Yes.

19 Q. Let's put that one aside. Now showing you a
20 document that's been marked as Exhibit Number 2, which is
21 headed "Administrative Plan," do you see that, ma'am?

22 A. Yes.

23 Q. Can you tell us what this document generally is
24 intended to do?
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1 A. This was one of the or the plan at the time
2 between Division of Child Support Enforcement and Family
3 Court.

4 Q. And does this document, as you understand it,
5 govern the use of funds received by the Family Court from
6 the Division of Child Support Enforcement, at least back
7 in the period covered by this document?

8 A. I'm not sure how you mean govern.

9 Q. How the funds were to be administered, is it
10 provided for by this plan?

11 A. Most of it I think relates to operations, not
12 fiscal things. Part of it was how we would be reimbursed
13 for the cost incurred by the court for Family Court
14 cases, for child support.

15 Q. Okay. What does it provided generally with
16 respect to how you would be reimbursed?

17 A. The process?

18 Q. Yes.

19 A. Each quarter we would send them a bill
20 representing the amount of cases, child support cases
21 that Family Court handled, and they would reimburse us
22 that amount.

23 Q. All right. And those child support cases that
24 are covered by this particular plan, are those cases
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1 where the support was being provided by the Division of

2 Child Support?
3 A. Support for? I'm sorry.
4 Q. Well, we are talking about child support, we are
5 talking about somebody makes a payment either to a parent
6 or to a child to support them, right?
7 A. Yes.
8 Q. And where does that money come from?
9 A. Family Court doesn't get involved in that.
10 Q. I understand. The actual support payments do not
11 come from Family Court; we are agreed on that, right?
12 A. Right, Family Court doesn't handle any of that.
13 Q. Does that money come from the State of Delaware
14 or does it come from the federal government?
15 A. I don't know.
16 Q. Now, with respect to the money that's covered by
17 this document, the "Administrative Plan," those funds are
18 the cost that Family Court incurs such as for its
19 employees and other expenses it has in administering
20 these programs covered by this plan, right?
21 A. Yes.
22 Q. Now, those programs, are they different depending
23 upon who is providing the support payments?
24 A. Not that I'm aware of.

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1 Q. Well, let's turn to page 2 where it talks about,
2 in Roman Numeral II it talks about "Application for IV-D
3 Services," do you see that, ma'am?
4 A. Yes.
5 Q. What are Roman Numeral IV-D Services?
6 A. To be honest, I'm not sure exactly what -- it is
7 child support related cases that Family Court works on.
8 Q. Okay. And let's see if we can work our way
9 through it.
10 A. Okay.
11 Q. In paragraph 1 it says, "The Division," which I
12 think we can agree is the Division of Child Support,
13 "shall publicize the availability" --

MR. NIEDZIELSKI: Enforcement.

MR. MCNALLY: Pardon?

16 MR. NIEDZIELSKI: Division of Child Support
17 Enforcement.

18 BY MR. MCNALLY:

19 Q. "Enforcement," right, "shall publicize the
20 availability of public services provided under Title IV-D
21 of the Social Security Act." Do you see that?

22 A. Yes.

23 Q. It talks about, thereafter, providing
24 applications for people to sign and submit. Do you see

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1 that?

2 A. Yes.

3 Q. Now, does Family Court keep track of those
4 individuals who are receiving support under this Title
5 IV-D?

6 A. I'm not sure. I don't know.

7 Q. Does the Family Court send a bill to the Division
8 of Child Support Enforcement with respect to services

9 provided to families or children who are receiving Title
10 IV-D funding?

11 A. I'm not sure if it is for D funding.

12 Q. I think I'm getting it. In Family Court some of
13 the expenses are passed along to the Division of Child
14 Support Enforcement, correct?

15 A. Not passed on.

16 Q. But they are billed to and then reimbursed by?

17 A. Yes.

18 Q. And some other expenses of Family Court are not
19 submitted to the Division of Child Support Enforcement
20 but are paid by the State of Delaware, right?

21 A. Yes.

22 Q. How does the Family Court differentiate who gets
23 the bills, is what it comes down to?

24 A. Who gets which bill?

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1 Q. The bill, where the money comes from to pay for
2 the various expenses of Family Court.

3 A. Family Court has a split coding where we -- every
4 expense basically is split 75 percent general fund and 25
5 percent ASF, appropriated special funds.

6 Q. Okay. And so if I were working there, 75 percent
7 of my salary would come out of one source of funding and
8 25 percent from the other source?

9 A. No. There are specific positions allocated to
10 appropriated special funds.

11 Q. Okay. And in the case of those positions, all of
12 the salary would be paid by allocated special funds?

13 A. Appropriated special funds, yes.

14 Q. Appropriated, excuse me. I'll get that lingo
15 right eventually.

16 And those appropriated special funds are
17 funds, again, that ultimately come -- not ultimately but
18 initially come from the Division of Child Support
19 Enforcement, correct?

20 A. Yes.

21 Q. With respect to those positions of Family Court
22 where the cost of the position is paid through the
23 Division of Child Support Enforcement, do you know how
24 that particular decision is made to allocate those

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1 particular expenses to the Division of Child Support
2 Enforcement money?

3 A. For the positions?

4 Q. Yes.

5 A. I don't know how it was originally set up.

6 Q. Do you know how it is set up now?

7 A. Well, I know there is positions particularly paid
8 out of appropriated special funds.

9 Q. How do they pick those particular positions to be
10 paid out of appropriated special funds?

11 A. I'm not sure how they determined which positions.

12 Q. But as far as you know, there is some system that
13 that particular position gets funded out of appropriated
14 special funds?

15 A. I'm sorry, could you say that again?

16 Q. Sure. What I'm trying to find out is when they
17 pick these particular positions, it is just not
18 haphazard? There is a reason for it, as far as you know?
19 You just don't know what the reason is?

20 A. The positions were always, as far as I know, were
21 always in ASF. I'm not -- I don't know why they were
22 initially set up ASF.

23 Q. Okay. And as far as you know, that's the way it
24 has been since 1994, anyway?

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1 A. Yes.

2 Q. Do you know what an AFDC case is?

3 A. No.

4 Q. It is referred to in this document. Maybe Aid to
5 Families with Dependent Children, something like that?

6 A. I don't know.

7 Q. All right. Would you turn to page 28, please.
8 At the bottom there is a section XII headed "Financial
9 Requirements"?

10 A. Yes.

11 Q. It goes on to say, "Responsibilities of the
12 Division," it says, "The Division shall reimburse the
13 Court," do you see that, ma'am?

14 A. Yes.

15 Q. And it talks about "direct and indirect
16 expenditures incurred under the Agreement at the
17 applicable Federal Financial Participation rate," right?

18 A. Yes.

19 Q. What is the Federal Financial Participation rate?

20 A. I'm not sure what that means there. Currently
21 there is a cost allocation plan that determines our
22 billable amount.

23 Q. Sure. You are allowed to bill the amount that's
24 been agreed upon under that plan, correct?

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1 A. Yes.

2 Q. And do you know whose criteria, is it federal
3 government imposed plan or is it from somebody else?

4 A. Which plan?

5 Q. The plan that determines how you allocate, what
6 funds you are allowed to bill back to the Division.

7 A. I'm not sure.

8 Q. Do you have any understanding of whether the
9 federal government dictates to the Division what expenses
10 the Division may reimburse Family Court for?

11 A. I don't know.

12 Q. But you do understand that some, at least, of the
13 Division of Child Support Enforcement's funds come from
14 the federal government?

15 A. Yes.

16 Q. This is Number 3. The title of this document is
17 "Narrative Cost Allocation Methodology," do you see that,
18 ma'am?

19 A. Yes.

20 Q. And it is, of course, dated effective January 1,
21 '95. Is it your understanding that this document's
22 methodology was in place in '95 or so?

23 A. Yes.

24 Q. Do you think it was in place before '95 or
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1 something like it?

2 A. I don't know.

3 Q. And is it still in place today, or something like
4 it?

5 A. Something like it, yes.

6 Q. And if you turn to the first page of the actual
7 document itself, it talks about in the background, "Child
8 Support activities provided by the Family Court are
9 reimbursed," do you see that, ma'am?

10 A. Yes.

11 Q. And it talks about "by Federal Title IV-D
12 funding," do you see that?

13 A. Yes.

14 Q. Do you know what Federal IV-D funding refers to?

15 A. No.

16 Q. I'm handing you Exhibit Number 4 to your
17 deposition. And it is entitled "Cooperative Agreement,"
18 and it is dated December 1997, bears the Bates number on
19 the first page of 1284. Do you see that, ma'am?

20 A. Yes.

21 Q. Can you tell us in general what this document is
22 designed to do?

23 A. This is similar to the earlier plan, I believe,
24 just presenting the agreement between the Division of
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1 Child Support Enforcement and Family Court.

2 Q. Let's turn to page 3 of the document, which is
3 under the section called "Definitions" and it talks about
4 "IV-D Activities," and it talks about six general types
5 of IV-D Activities. Do you see that, ma'am?

6 A. Yes.

7 Q. Is it your understanding that those are the types
8 of activities done by the Family Court for which they are
9 to get reimbursement from the Division of Child Support
10 Enforcement?

11 A. Yes.

12 Q. Let's turn to page 7 where the photocopy is
13 awful, but I think we can agree to blame that on Mr.
14 Niedzielski.

15 Apart from that joke, you will see where it
16 says there, "The Court shall comply with all provisions
17 of 45 CFR"?

18 A. Yes.

19 Q. And it goes into Federal Financial Participation?

20 A. Yes.

21 Q. Do you see that?

22 A. Yes.

23 Q. What do you understand Federal Financial
24 Participation to mean?
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1 A. I'm not sure.

2 Q. Let's look at page 9 where it talks about,
3 subsection N, it says, "The following costs incurred by
4 the Court," do you see that, ma'am?

5 A. Yes.

6 Q. And it says those "qualify for Federal Financial
7 Participation." In that context do you know what Federal
8 Financial Participation means?

9 A. No.

10 Q. More specifically, you don't know whether those
11 really reference the funds that come from the federal
12 government? You don't know one way or the other?

13 A. I'm not sure.

14 Q. Okay. I'm handing you Exhibit Number 5.

15 MR. NIEDZIELSKI: One bad page out of all
16 this photocopying, you have to make a point about it.

17 MR. MCNALLY: Well, the record will show I
18 was teasing you. It is a bad habit I have, for which I
19 apologize.

20 MR. NIEDZIELSKI: That's okay.

21 MR. MCNALLY: Since you are such a
22 good-natured person.

23 BY MR. MCNALLY:

24 Q. Let's turn to Exhibit 5. Can you tell us what

0024 this is, ma'am?

1 A. These are from the budget acts from each year
2 that show what the funding was that the Family Court
3 received.

4 Q. All right. And on the first page, it has got
5 handwritten up there "7/1/92 to 6/30/93," that would be
6 the fiscal year ending in '93?

7 A. Fiscal year '93, yes.

8 Q. That's what I meant to say.

9 A. Yes.

10 Q. Now, it has three categories under the heading of
11 "Personnel," do you see that, ma'am? On the right-hand
12 column.

13 A. Oh, I'm sorry, over here, yes.

14 Q. What does NSF mean?

15 A. Nonappropriated special funds.

16 Q. And then there is ASF?

17 A. Appropriated special funds.

18 Q. And it is those funds that are from the Division
19 of Child Support Enforcement?

20 A. Yes.

21 Q. Then it has got GF, is that general fund?

22 A. Yes.

23 Q. Tell me, I may have missed this, but the NSF

0025 funds, where do they come from?

1 A. Those are typically through grants.

2 Q. And the grants are typically from whom?

3 A. It depends. I'm not sure.

4 Q. Sometimes they could be from private charitable
5 companies or organizations?

6 A. Could be, yes.

7 Q. Or it could be from some government agency some
8 place?

9 A. Yes.

10 Q. Let's turn to the next page, which I guess is the

12 same sort of material for the fiscal year ending June 30,
13 '94?

14 A. Yes.

15 Q. Would I be correct then to read this to say that
16 in the fiscal year ending June '94 the Family Court had
17 62 million dollars supplied to it by ASF funding?

18 A. No. Are you referring to this column over here?

19 Q. Yes, ma'am.

20 A. That's 62 positions. Those are positions.

21 Q. When it goes over to the other side, it then has
22 the numbers in dollars where it says "Line Item"?

23 A. Yes.

24 Q. So let's see if I have got it right for a change

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1 this time. In that particular fiscal year ending in June
2 of '94 the Family Court had \$1,765,000 reimbursed to it
3 by ASF funds?

4 A. For personnel costs, yes.

5 Q. Yes, ma'am. And the total that was reimbursed to
6 it was two million, I guess it is nine thousand dollars
7 or so?

8 A. This --

9 Q. I'm sorry. You are nodding and she doesn't take
10 down nods.

11 A. I'm sorry. Yes.

12 Q. That's a yes?

13 A. Yes. Actually the two million-nine that's
14 reflected here is the appropriated -- it is the spending
15 level, our spending authority that we have. That's not
16 necessarily how much was reimbursed by Division of Child
17 Support.

18 Q. Okay. But as a general matter you are not
19 supposed to spend more than that?

20 A. Correct.

21 Q. And as a number, it is a number that you would
22 have expected to spend in that year, because it is your
23 budget, correct?

24 A. Yes.

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1 Q. So if somebody, for example, were to leave you
2 might save some money, as an example?

3 A. Yes.

4 Q. Okay. And that money, again, did you think that
5 some or all of that money comes from the federal
6 government?

7 A. Which?

8 Q. The two million nine thousand dollars we just
9 talked about.

10 A. That's the money that's reimbursed from the
11 Division of Child Support.

12 Q. Yes. So you are nodding yes?

13 A. Yes.

14 Q. It does come from the federal government?

15 A. That's my understanding, that they receive
16 federal funds.

17 Q. I'm going to show you this next exhibit. What
18 I'm going to try to do here is see if I can figure out

19 what positions are funded by the funding we just talked
20 about, the ASF funding.

21 A. Okay.

22 Q. In looking at this chart of positions, can you
23 tell that?

24 A. No. This chart, it only reflects general fund
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1 positions.

2 Q. The next page in the chart also just reflects
3 general fund positions?

4 A. Yes.

5 Q. Would there be in your experience in Family Court
6 a similar chart to this, say for this year, that would
7 reflect positions that are funded by the ASF money?

8 A. Yes, for this year, yes.

9 Q. So now this particular chart, it only goes
10 through, I think it says as of April 1, '94.

11 A. Yes.

12 Q. But it is your understanding that none of the
13 positions on here are funded by ASF funding?

14 A. Yes, that's right.

15 Q. Did you look for a chart similar to this that
16 would have dealt with in '94 the ASF funding?

17 A. No. I wasn't looking for it.

18 Q. If it was there you would have produced it; is
19 that fair to say?

20 A. Yes.

21 Q. It just wasn't there, that's all?

22 A. I didn't see it.

23 (Discussion off the record.)

24 Q. While we were off the record you were kind enough
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1 to help me find Bernice Lieberman's position on this
2 chart, and it is on the third page, Bates number 1289.
3 Is that right?

4 MR. NIEDZIELSKI: Fourth page.

5 Q. 1269, I'm sorry, and it is the fourth page. And
6 it is state position 524.

7 A. Yes.

8 Q. Do you see that, ma'am?

9 A. Yes.

10 Q. Let me see if I understand this. It says SO 524.
11 Do you know what SO means?

12 A. It is state office. It is one of the sections
13 under Family Court. It is how the payroll is set up.

14 Q. And was it a mediation/arbitration officer?

15 A. Yes.

16 Q. What does this next column, FLSA, mean?

17 A. I'm not sure -- I'm trying to think what FLSA
18 stands for. It is if they are eligible for overtime, I
19 believe. That's what we put that in for.

20 Q. What does that annotation there, NCV, mean?

21 A. Not covered, I believe.

22 Q. Not covered in what sense?

23 A. I'm not sure.

24 Q. I understand you are not sure. What do you
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1 think, what does not covered mean in that term?
2 A. Not covered under FLSA.
3 Q. Therefore, they would not get overtime if they
4 worked overtime, as you understand it?
5 A. I believe. I don't use that anymore.
6 Q. Then it has got underneath there PG 11. What the
7 heck --
8 A. Pay grade.
9 Q. Pay grade?
10 A. Yes.
11 Q. Of course, it has got the name?
12 A. Yes.
13 Q. And then it has got a wage?
14 A. Yes.
15 Q. What does a "Base Rate" mean?
16 A. That's how much you receive each pay.
17 Q. What does "Project Costs Through" mean?
18 A. That's projected cost. This report is actually a
19 projection report. So it is projecting how much money,
20 how much funds are needed.
21 Q. Between the date of the report, April 1, and the
22 end of the fiscal year?
23 A. Yes.
24 Q. What does "OEC" mean?

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1 A. Other employment costs.
2 Q. What are those?
3 A. Typically pension, unemployment insurance.
4 Q. And the final column, which apparently does not
5 apply to Ms. Lieberman, is something that says "Notes"?
6 A. Yes.
7 Q. What does FLD 3/1 mean or that section?
8 A. I believe filled. I'm not sure.
9 (Discussion off the record.)
10 Q. Now I'm going to give you Exhibit Number 7. Can
11 you tell us what this document is?
12 A. This is the last destruction notice that I had
13 for our fiscal documents, by current -- by fiscal year.
14 It is -- basically it allows the destruction for fiscal
15 year '98 and '99 records.
16 Q. Why did you produce this?
17 A. This was just to show -- the rest of it is the
18 retention schedule for the state -- we are not required
19 to hold fiscal records after so many years.
20 Q. Where in this document does it refer to any
21 records from '94, for example? Is there a specific page
22 there that does that?
23 A. Not for that specific year.
24 MR. NIEDZIELSKI: If I can be of assistance

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1 here, the way that these retention schedules work is they
2 characterize a group or a category of documents, and they
3 will give those category of documents a retention
4 schedule. And the reason that we produced this was to
5 show you why we didn't have all the detailed financial
6 records that we normally would have, because they have
7 been destroyed.

8 BY MR. MCNALLY:

9 Q. And what Mr. Niedzielski says is generally your
10 understanding, correct?

11 A. Yes.

12 Q. Now, with respect to this, just so I get it,
13 let's just take an example, let's go to page 4 I guess,
14 which is page 864, Bates number, and on here it has got
15 something that says "Intergovernment Vouchers," do you
16 see that, ma'am?

17 A. Yes.

18 Q. And across from that it says, "Total Retention
19 Five Years; Successful Audit"?

20 A. Yes.

21 Q. And what that would mean is that after I guess a
22 successful audit they would be retained for five years?

23 A. Yes.

24 Q. Now, the funds provided to the Family Court by

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1 the Division of Child Support Enforcement, to your
2 knowledge, in 1994 did the Family Court get any grants
3 from the federal government or any federal agency?

4 A. Not that I'm aware of.

5 Q. All right. And there weren't any records that
6 you could look at to determine that; is that fair?

7 A. Yes, pretty much.

8 Q. And of course, you weren't there in '94 so you
9 wouldn't --

10 A. Right.

11 Q. Now, as of today, in the last fiscal year, for
12 example, did Family Court get any direct funding from the
13 federal government?

14 A. As of today, no.

15 Q. Did they ever, to your knowledge, get any direct
16 funding from the federal government?

17 A. I don't think we have been direct, not that I'm
18 aware of.

19 Q. So they didn't receive any grants, for example,
20 from the federal government?

21 A. Right.

22 MR. MCNALLY: All right. I think that's
23 really all the questions I have. Do you have any?

24 MR. NIEDZIELSKI: No. I have no questions.

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1 We will read and sign. I don't think it will be long.

2 (Proceedings conclude at 10:47 a.m.)

3

4 I N D E X

5 DEPONENT: KAREN DISCH	PAGE
6 Examination by Mr. McNally	2

7

8 E X H I B I T S

9 DISCH DEPOSITION EXHIBITS	MARKE
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10 1 - National Court Appointed Special Advocate Association 2003 Agreement	2
11 2 - Administrative Plan	2
12 3 - Narrative Cost Allocation Methodology	2
12 4 - Cooperative Agreement, Dec. 1997	2

13 5 - Budget acts, 7/1/92-6/30/93 2
13 6 - Lists of personnel 2
13 7 - Destruction Notice 2

14
15 ERRATA SHEET/DEPONENT'S SIGNATURE PAGE 35
16 CERTIFICATE OF REPORTER PAGE 36
17
18
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2
3
4 REPLACE THIS PAGE
5 WITH THE ERRATA SHEET
6 AFTER IT HAS BEEN
7 COMPLETED AND SIGNED
8 BY THE DEPONENT.
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1 State of Delaware)
1))
2 New Castle County)
3
4 CERTIFICATE OF REPORTER
5

6 I, Eleanor J. Schwandt, Registered
6 Professional Reporter and Notary Public, do hereby
7 certify that there came before me on the 28th day of
7 February, 2005, the deponent herein, KAREN DISCH, who was
8 duly sworn by me and thereafter examined by counsel for
8 the respective parties; that the questions asked of said
9 deponent and the answers given were taken down by me in
9 Stenotype notes and thereafter transcribed by use of
 computer-aided transcription and computer printer under

10 my direction.

11 I further certify that the foregoing is a
12 true and correct transcript of the testimony given at
13 said examination of said witness.

14 I further certify that I am not counsel,
15 attorney, or relative of either party, or otherwise
16 interested in the event of this suit.

17

18

19

20

Eleanor J. Schwandt
Certification No. 125-RPR
(Expires January 31, 2008)

21

22

23

24

DATED: